IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 03-09-2007

CORAM

THE HONOURABLE MR.JUSTICE S.PALANIVELU

CRIMINAL REVISION CASE No.1274 OF 2007

Kadar Badsha ... Petitioner/2nd Respondent

-vs-

1.The Station House Officer,
Tirukoilur Police Station,
Tirukoilur,
Villupuram District.

2.Subron Bee ... 1 & 2 Respondents/1st Respondent & Petitioner

Revision against the order, dated 08.12.2005, made in Crl.M.P.No.8334 of 2005 on the file of Principal Sessions Judge, Villupuram,

For petitioner : Mr.K.Shakespeare
For respondent 1 : Mr.A.Saravanan,
Govt.Advocate (Criminal Side).

J U D G M E N T

One Elumalai had preferred a complaint against the revision petitioner as well as the second respondent and the same was registered in Crime No.803 of 2004 for the offences under Sections 147, 148, 324, 323 IPC read with Section 3 (1) (x) of the Scheduled Castes and Scheduled Tribes Act, which is exclusively triable by a Special Court, namely, the Sessions Court, Villupuram. Crime No.804 of 2004 came to be registered on the basis of a complaint lodged by the revision petitioner against the other parties, for the offences under Sections 147, 148, 294 (B), 354, 324 and 506 (ii) IPC.

2. The above said cases are pending before the Principal Sessions Court, Villupuram, and the Judicial Magistrate Court, Thirukoilur, in S.C.No.102 of 2005 and C.C.No.30 of 2005 respectively. It is an admitted fact that both the cases have arisen out of same transaction.

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3. Second respondent preferred a petition in Criminal M.P.No.8334 of 2005 on the file of Principal Sessions Judge, Villupuram, praying for the relief of transferring the case in C.C.No.30 of 2005, pending on the file of Judicial Magistrate, Thirukoilur, to the file of Principal Sessions Court, Villupuram, for trying the same with S.C.No.102 of 2005.

4. Having heard both the parties, the learned Principal Sessions Judge, Villupuram, allowed the petition, directing transfer of C.C.No.30 of 2005 on the file of Judicial Magistrate, Thirukoilur, to his file.

5. Aggrieved over this, the revision petitioner has come forward with this revision, stating that under the provisions of Scheduled Castes and Scheduled Tribes Act, the District and Sessions Court functions as a Special Court and while dealing with the cases registered under the said Act, it cannot try the cases, which are triable by a Judicial Magistrate, and if it so happens, the very purpose of Section 14 of the Act will be defeated. It is further argued on behalf of the petitioner that if C.C.No.30 of 2005 is tried by the District Court, the petitioner would lose the right of appeal before the District Court.

6. The learned Principal Sessions Judge, Villupuram, has clearly observed in his order that since both the occurrences took place at the same time, the cases should be treated as case and counter and they have to be tried by the same Court.

7. I do not find any infirmity in the said observation. When it is alleged that the occurrence is same with respect to two different criminal cases, the necessary corrollary would be that both the cases should be tried by the same Court. In other words, if both the cases, which involve the same set of facts, are allowed to be tried by different Courts, there is every risk of both the Courts coming out with conflicting observations, which would ultimately prejudice the rights of the parties and justice could not be rendered to them. The woes of the parties would continue so long as the cases reached finality in higher forums.

8. Learned counsel for the petitioner placed reliance upon a decision of the Hon'ble Apex Court in Dhyan Investments and Trading Co.Ltd. v. Central Bureau of Investigation and others, 2001 AIR SCW 2788, wherein it is held as follows :

> "The Special Court is not subordinate to the High Court. The High Court would have no power under S.407 of the Criminal Procedure Code to transfer a case from one Judge of the Special Court to another. Only judicial superintendence is envisaged under Arts.226 and 227. There is no administrative control or superintendence. The High Court does not have administrative control over the Special Court under Art.235 of the Constitution of India."

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9. The petitioner cannot take recourse to the benefit of the above said decision, because, in the present case, there is no question of transfer of cases from one Special Court to another. The contention that the petitioner would lose the right of appeal before the District Court could also not be countenanced, for the reason that since he is involved in both the cases, definitely, he can prefer appeals against the judgments rendered in both the cases by the respective Courts, before the appropriate appellate forums. Hence, the order passed by the learned Principal Sessions Judge, Villupuram, is proper, which need not be interfered with.

10. In view of what is stated above, this Criminal Revision Case suffers dismissal and, hence, the same is dismissed. No costs. Consequently, the connected Crl.M.P.No.1 of 2007 is also dismissed.

dixit

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Principal Sessions Judge,
   Villupuram.

2. The Judicial Magistrate, Thirukoilur.

3. The Station House Officer,
   Tirukoilur Police Station,
   Tirukoilur, Villupuram District.

4. The Public Prosecutor,
   High Court, Madras.

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